

EXHIBIT C



STATE OF NEW YORK
UNIFIED COURT SYSTEM
OFFICE OF THE ADMINISTRATIVE JUDGE
NINTH JUDICIAL DISTRICT
RICHARD J. DARONCO WESTCHESTER COUNTY COURTHOUSE
111 DR. MARTIN LUTHER KING JR. BOULEVARD
WHITE PLAINS, NEW YORK 10601
TEL: (914) 824-5100 FAX: (914) 995-4111

HON. LAWRENCE K. MARKS
Chief Administrative Judge

HON. MICHAEL COCCOMA
Deputy Chief Administrative Judge
(Outside NYC)

HON. KATHIE E. DAVIDSON
District Administrative Judge
Ninth Judicial District

NANCY J. BARRY, ESQ.
District Executive

June 22, 2018

Mr. Marc Fishman
3200 Netherland Ave., Apt. G
Bronx, NY 10463

Re: ADA Accommodation

Dear Mr. Fishman:

Attached please find the NYS Unified Court System Denial of Accommodation Form that I have completed, reviewed and signed. Your request for the provision of realtime reporting services is denied, based on the information provided.

You stated that your disabilities are :“post-concussion syndrome”; tinnitus; occipital neuralgia/TJM headaches. Additionally, you stated that these conditions: make it “difficult/near impossible for me to remember the spoken word,” “effect[] immediate recall and short term memory greatly,” and cause you “to not remember fully.”

You have asked for realtime reporting as an ADA accommodation for what you describe as your cognitive disabilities, so that you can be reminded of oral instructions given by the court.

Please be advised that realtime reporting, the simultaneous textual transcription of spoken words on a screen, is used as an accommodation for those with hearing impairments. Although you mention tinnitus, a condition which may in some people cause hearing loss, you have not provided any medical documentation that it has done so in your case. Nor does it appear that you were unable to hear the proceedings in any of your numerous prior court appearances. If you are able to provide medical documentation that you are hearing-impaired and that your ability to participate in court proceedings is thereby impacted, please submit it. We will then consider whether any assistive technologies might provide an accommodation for your hearing impairment, including assistive listening devices or realtime reporting, or whether any alterations in

courtroom practice or procedure that your physician might recommend could provide a suitable accommodation.

Realtime reporting cannot be provided to address your asserted short-term memory impairment. Transcripts of the official record can be obtained through the usual process upon request, and will provide a complete written record of the proceedings. To the extent that you assert you must obtain an immediate transcript so that you will be able to remember an instruction given you by the court, you may also request from the judge, when given such an instruction, the opportunity to pause the proceedings while you write down what was instructed. Alternatively, you may also for the same purpose make use of your attorney, or of the ADA advocate the trial court has permitted to accompany you during the proceedings, or of a neutral, non-witness notetaker the court has granted you permission to use during proceedings. In any event, the incident you cite regarding your failure to obey the court's written order – that gifts could only be sent to your children "on birthdays and major holidays" – appears to have been caused by your misinterpretation of the language of that written order (i.e. your apparent belief that Passover, Memorial Day and July Fourth could be construed as appropriate gift-giving holidays), not by any failure of memory.

Attached to the NYS Unified Court System Denial of Accommodation Form are the instructions for the administrative review of this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'NJB', is written over the printed name.

Nancy J. Barry
District Executive

**NYS UNIFIED COURT SYSTEM
DENIAL OF ACCOMMODATION FORM**

Person for whom accommodation is sought: Marc Fishman

Address: 3200 Netherland Ave., Apt. G, Bronx, NY 10463

Email: rentdriver@gmail.com

Phone Number: 914-837-3209

Date of initial request: June 7, 2018, June 11, 2018

Person's Status:

☐ Juror ☒ Party ☐ Witness ☐ Attorney ☐ Other (specify: _____)

Court or court facility: Westchester Family Court

Judge (if applicable): Support Magistrate Carol A. Jordan

Case name and number (if applicable): Solomon v. Fishman (131794)

Type of disability: post-concussion syndrome"; tinnitus; occipital neuralgia/TJM headaches

Accommodation(s) requested: See attached

Reason(s) for Denial: *(Check all that apply and provide specific explanation)*

- ☒ Person is not disabled. *Explain:*
- ☐ Person is disabled, but the court is not required to provide an accommodation. *Explain:*
- ☐ Requested accommodation(s) would create undue financial or administrative burden. *Explain:*
- ☐ Requested accommodation(s) would fundamentally alter the nature of service, program, or activity. *Explain:*
- ☒ An alternative accommodation that would allow full participation in the proceeding is available. *Explain:*

Person Denying Request:

This request was denied by the undersigned in consultation with the office of the Statewide ADA Coordinator. *(District Executive and Chief Clerks only)*

Signature MJB (Date) 6/22/18 Name NANCY J. BARRY [print]
DISTRICT EXECUTIVE
Title [print]

Administrative Review of this Denial

This decision to deny your requested accommodation can be reviewed administratively. If you wish to appeal this decision, you must submit either a **Request for Reconsideration** form (obtainable from the Chief Clerk or District Executive) or a written statement seeking reconsideration. If the Request for Reconsideration form is not used, the written statement must contain the following minimum information:

- your name, address, e-mail address and telephone number
- the name/location of the court or court facility in which the accommodation was sought.
- the case name and number, if applicable
- the accommodation requested
- the basis for requesting reconsideration.
- the desired remedy or the solution requested.
- a copy of this Denial of Accommodation form.

You must submit the Request for Reconsideration form or written statement, along with a copy of this Denial of Accommodation form and any additional relevant written documentation you wish to include, by mail or e-mail no later than ten (10) days after the date of the written denial to:

**New York State Office of Court Administration
Professional and Court Services
Statewide ADA Coordinator
25 Beaver Street, Suite 809
New York, NY 10004**

For good cause, the Statewide ADA Coordinator may extend the ten (10) day filing period.

Administrative review is not available if your accommodation request was denied by a judge or judicial officer.

[Copy to person requesting accommodation; copy to Statewide ADA Coordinator. This form is confidential.]